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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,856	03/15/2001	Takashi Muto	P/2041-57	5564
32172	7590	06/22/2004	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) 41 ST FL. NEW YORK, NY 10036-2714			CORSARO, NICK	
		ART UNIT	PAPER NUMBER	
		2684		

DATE MAILED: 06/22/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/808,856	MUTO, TAKASHI
	Examiner Nick Corsaro	Art Unit 2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 May 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-7 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: ____ .

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, and 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichimura et al. (6,501,968) in view of Sato et al. (Re 36,712).

Consider claim 1, Ichimura discloses a portable telephone apparatus with a battery alarm function (see abstract lines 1-6, col. 2 lines 47-67, and col. 4 lines 35-52). Ichimura discloses a rechargeable battery apparatus and battery supervision means for supervising and detecting a voltage of the battery apparatus and issuing a lowest operation voltage level indicator when the detected voltage drops to a lowest operation voltage level that and unrestricted communication function of said portable telephone apparatus can operate (see col. 3 lines 64-67, col. 4 lines 1-67 and col. 5 lines 1-45, where Ichimura discusses that base on a control unit checking the capacity of the battery, the unit will notify the user that additional functions must not be used to allow unrestricted communications for a time period). Ichimura discloses issuing a supervision voltage level alarm when the voltage of said battery apparatus detected by said battery supervision means drops to a supervision voltage level different from the lowest operation voltage level (see col. 5

lines 55-67, and col. 6 lines 1-14, where Ichimura discusses that the control unit will issue a notification that the is sufficient power to operate additional functions, i.e., when the voltage drops to a point other than that needed to operate the transceiver for a particular time period).

Ichimura discloses issuing a visual or audible indicator (col. 4 lines 35-60), however does not specifically disclose issuing an alarm. Sato teaches issuing an alarm (see col. 7 lines 63-67, and col. 8 lines 1-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Ichimura, and issue an alarm, as taught by Sato, thus allowing the user to be warned of the impending problem, as discussed by Sato (col. 3 lines 1-10).

Consider claims 4 and 6, Ichimura discloses the supervision voltage is higher than the lowest operating voltage (see col. 6 lines 1-15, and col. 3 lines 22-67, where Ichimura discusses that the supervision voltage is that voltage capable of supporting both additional functions and transceiver functions).

4. Claims 2-3, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichimura in view of Sato as applied to claim 1 above, and further in view of Flynn et al. (5,870,685).

Consider claims 2, 3, 5, and 7 Ichimura and Sato do not specifically disclose said battery supervision means can set the supervision voltage level to an arbitrary value. Flynn teaches said battery supervision means can set the supervision voltage level to an arbitrary value, where the values are for additional functions, and different in manner for different functions or different levels (see col. 11 lines 5-21, col. 11 lines 64-67, col. 12 lines 1-67, col. 13 lines 1-67 and col. 14

lines 1-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Ichimura and Sato, and have said battery supervision means can set the supervision voltage level to an arbitrary value, as taught by Flynn, thus avoiding premature shutdown of the phone, as discussed by Flynn (col. 7 lines 5-15).

Consider claims 2, Ichimura and Sato do not specifically disclose said battery supervision means can set the supervision voltage level to an arbitrary value. Flynn teaches said battery supervision means can set the supervision voltage level to an arbitrary value, where the values are for additional functions, and different in manner for different functions or different levels (see col. 11 lines 5-21, col. 11 lines 64-67, col. 12 lines 1-67, col. 13 lines 1-67 and col. 14 lines 1-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Ichimura and Sato, and have said battery supervision means can set the supervision voltage level to an arbitrary value, as taught by Flynn, thus avoiding premature shutdown of the phone, as discussed by Flynn (col. 7 lines 5-15).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication should be directed to Nick Corsaro at telephone number (703) 306-5616.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung, can be reached at (703) 308-7745. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth, Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 customer Service Office whose telephone number is (703) 306-0377.

Nick Corsaro
Primary Examiner



NICK CORSARO
PATENT EXAMINER